



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2017-0391; FRL-10080-02-R4]

Air Plan Approval; Kentucky;

Source Specific Revision for Jefferson County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing the approval of a revision to the Kentucky State Implementation Plan (SIP), submitted by the Commonwealth of Kentucky, through the Kentucky Division for Air Quality (KDAQ), on March 29, 2021. The revision was submitted by KDAQ on behalf of the Louisville Metro Air Pollution Control District (District or Jefferson County), which has jurisdiction over Jefferson County, Kentucky. The revision removes from the SIP several source-specific permits for a facility, which were previously incorporated by reference, and replaces them with a Board Order with emissions controls that are at least as stringent as those in the permits.

DATES: This rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R04-OAR-2017-0391. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management

Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-

8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER**

INFORMATION CONTACT section to schedule your inspection. The Regional Office's

official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joel Huey, Air Planning and Implementation

Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61

Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Huey can be reached by telephone at

(404) 562-9104 or via electronic mail at huey.joel@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In 1990, EPA approved a revision to the Kentucky SIP that added an emission reduction plan in the form of a "bubble rule" for the Alcan Foil Products¹ (now LL Flex) plant in Louisville, Kentucky. *See* 55 FR 20268 (May 16, 1990). That revision allowed the facility to average, or "bubble," volatile organic compound (VOC) emissions from nine rotogravure printing/coating machines in lieu of achieving compliance with Jefferson County's SIP-approved reasonably available control technology (RACT) regulation – Regulation 6.29, "Standard of Performance for Existing Graphic Arts Facilities Using Rotogravure and Flexography" – which limits VOC emissions from graphic arts facilities on a line-by-line² basis. The revision treated the nine machines as one affected facility and required the facility to achieve a VOC emissions reduction equivalent to at least 20 percent of the baseline emissions from the affected units.³

¹ The company, originally named Alcan Foil Products, later became Reynolds Metals Company, then LL Flex, LLC.

² "Line" refers to "printing line," which is defined, in part, as "a series of processes, and the associated process equipment, used to apply, dry, and cure an ink containing a VOC." *See* Definition 1.8 of Regulation 6.29, Section 1.

³ As described in the notice of proposed rulemaking for the 1990 action, "Baseline emissions were determined using the lowest of actual, SIP-allowable or RACT-allowable emissions for each source involved in the bubble, with values for the actual quantity of VOC content of coatings used based on the most recent two-year period." *See* 55 FR 2842 (January 29, 1990).

Jefferson County included these provisions in various permits issued by the District to Alcan Foil Products (now LL Flex), and those permits were incorporated by reference into the Kentucky SIP. Specifically, the May 16, 1990, approval incorporated into the SIP the Air Pollution Control District of Jefferson County's (APCDJC's) Permits 103-74, 104-74, 105-74, 106-74, 110-74, and 111-74, as effective on February 28, 1990.

Subsequently, in 1998, EPA approved a revision to the Kentucky SIP that provided additional flexibilities to the plant operations of Reynolds Metals Company (now LL Flex) so that customer printing demands could be satisfied. *See* 63 FR 1927 (January 13, 1998). The revision lowered the daily maximum VOC emissions allowed from the facility's nine rotogravure printing/coating machines but retained the tons per year limit for the facility while increasing the number of operating days allowed. Additionally, the revision removed the maximum operating speeds for the nine machines. Jefferson County included these provisions in permits issued by the District to Reynolds Metals Company, and those permits were incorporated by reference into the Kentucky SIP. Specifically, the January 13, 1998, approval incorporated into the SIP updates to the previously approved APCDJC Permits 103-74, 104-74, 105-74, 106-74, 110-74, and 111-74, as effective on April 16, 1997.

On March 29, 2021, Jefferson County submitted a new SIP revision to remove the permits previously incorporated by reference and replace them with a Board Order, which was issued by the District to the facility on November 18, 2020, and which imposes control requirements that are at least as stringent as those in the old permits.^{4,5} This way, the Board Order becomes the source-specific SIP-approved provision, and any future amendments made by the District to the facility's permits for matters that are unrelated to the Board Order conditions will not necessitate a SIP revision.

⁴ The November 18, 2020, Board Order also formally changes the name of the owner to LL Flex, LLC, and the name of the facility to LL Flex, LLC, Louisville Laminating Plant.

⁵ Found under 40 CFR 52.920(d), the old permits being removed were approved in the Kentucky SIP as "Operating Permits for nine presses at the Alcan Foil Products facility – Louisville" and "Reynolds Metals Company."

On August 1, 2022 (87 FR 46916) EPA published a Notice of Proposed Rulemaking (NPRM), which included additional background on the changes and EPA's analysis. Comments on the August 1, 2022, NPRM were due on or before August 31, 2022. No comments were received on the August 1, 2022, NPRM, and EPA is now finalizing the changes as proposed.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Section I of this preamble, EPA is finalizing the incorporation by reference of Jefferson County's source-specific Board Order for LL Flex, LLC, effective on November 18, 2020. Also in this document, EPA is approving the removal of APCDJC Permits 103-74, 104-74, 105-74, 106-74, 110-74, and 111-74, effective on February 28, 1990, for Alcan Foil Products and effective on April 16, 1997, for the Reynolds Metals Company, from the Kentucky SIP, which were previously incorporated by reference in accordance with requirements of 1 CFR 51.5. EPA has made, and will continue to make, the SIP generally available at the EPA Region 4 Office (please contact the person identified in the **"FOR FURTHER INFORMATION CONTACT"** section of this preamble for more information). Therefore, the revised materials as stated above, have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.⁶

III. Final Action

EPA is approving the March 29, 2021, SIP revision and replacing the existing source-specific permits for the LL Flex facility in the Kentucky SIP with the November 18, 2020, Board Order.

IV. Statutory and Executive Order Reviews

⁶ See 62 FR 27968 (May 22, 1997).

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 15, 2022.

Daniel Blackman,
Regional Administrator,
Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart S - Kentucky

2. In § 52.920(d), amend the table by:

- a. Removing the entries for “Operating Permits for nine presses at the Alcan Foil Products facility - Louisville” and “Reynolds Metals Company”; and
- b. Adding a new entry for “Board Order for LL Flex, LLC” at the end of the table.

The addition reads as follows:

§52.920 Identification of plan.

* * * * *

(d) * * *

EPA-Approved Kentucky Source-Specific Requirements

Name of source	Permit No.	State effective date	EPA approval date	Explanations
**	**	*	*	*
Board Order for LL Flex, LLC	N/A	11/18/2020	[Insert date of publication in Federal Register], [Insert citation of publication]	
**	**	*	*	*

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[FR Doc. 2022-20431 Filed: 9/29/2022 8:45 am; Publication Date: 9/30/2022]